

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellant,

v

WILLIE JAMES LEWIS,

Defendant-Appellee.

UNPUBLISHED

March 15, 2005

No. 251635

Oakland Circuit Court

LC No. 2000-173274-FH

Before: Murray, P.J., and Markey and O'Connell, JJ.

MURRAY, P.J. (*concurring*)

I concur in the result and analysis set forth in the lead opinion, except as to footnote 1. As the lead opinion recognizes, the trial court did not articulate the change in legislation as a factor, and thus any discussion of the issue is clearly dictum. *Mitchell v Detroit*, 264 Mich App 37, 44; 689 NW2d 239 (2004). Additionally, from a review of the record I can say that had I been the circuit judge, I would not have sentenced defendant below the guidelines. However, whether we would have imposed the same sentence is not the standard of review, and under the correct standard of review, the sentence must be affirmed.

/s/ Christopher M. Murray